

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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MAR 10 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Amendment of Section 73.202,
Table of Allotments.
FM Broadcast Stations,
(Saluda and Irmo,
South Carolina)

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MM Docket No. 03-8
RM-10625

03-8

To: Chief, Audio Division
Media Bureau

COMMENTS IN OPPOSITION TO PROPOSED RULEMAKING

GLORY COMMUNICATIONS, INC.

By:

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COMMENTS IN OPPOSITION TO PROPOSED RULEMAKING

Glory Communications, Inc. ("Glory"), licensee of Station WFMV (FM), South Congaree, South Carolina, by its counsel, pursuant to 47 C.F.R. 1.415 and 1.420, hereby submits its comments in opposition to the above-captioned proposed rulemaking. Breckenridge Communications, LLC ("BCL"), the licensee of Station WJES (FM), Channel 221A, Saluda, South Carolina, requests the reallocation of its channel to Irmo, South Carolina, pursuant to 47 C.F.R. 1.420 (i), as that community's purported first local aural service. BCL states that it will apply for Channel 221A if reallocated to Irmo. In opposition to the proposed rulemaking, Glory submits the following comments.

Irmo is Not a Preferred Community
under Section 307(b)

In Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License ("Change of Community"), 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990). the Commission determined that any change of community must be consistent with the policies underlying Section 307(b). Id., 5 FCC Rcd at 7095-7096, para. 11. Indeed, the question of whether the amended allotment would result in a preferred distribution of facilities under Section 307(b) will serve as a "threshold test of the acceptability of the proposal to change communities. Id., 4 FCC Rcd at 4874, para. 28.

The Commission stated that it would "carefully monitor" any proposal which would result in a shift of a channel from an underserved rural area to a well-served urban area. It does not intend

to "blindly apply" the first local service preference where there would be such a reallocation and thus allow an artificial or purely technical manipulation of Section 307(b). The Commission will look behind claims of a first local service in a metro or urbanized area. Id., 4 FCC Rcd at 4873, para. 27; 5 FCC Rcd at 7096, paras. 12-14.

Saluda (pop. 3,066) is located in a rural area some 45 miles west of Columbia. Irmo (pop. 11,039) is located in the Columbia Urbanized Area and only some 10 miles west of the center of the downtown. The proposed tower site would be in Richland County, which is the same urbanized county that Columbia is located.

Thirteen radio stations are licensed to Columbia. However, only one radio station would remain in Saluda. It is WJES (**AM**), which is a 350-watt Class D daytimer.

The Commission held in LaGrange and Rollingwood, Texas, 10 FCC Rcd 3337, 3338, paras. 6-7 (1994), that the loss of the only full-time local service to a community must be considered under FM Allotment Priority Category 4 ("other public interest factors"). Here, Saluda would lose its only full-time local service. The sole remaining station would be a 350-watt daytimer.

In Change of Community, 5 FCC Rcd at 7095-7096, paras. 11-12, the Commission determined that it would not allow FM Allotment Priority Category (4), or "other public interest factors" to be used to undermine Section 307(b) to permit a migration from a rural to a well-served urban area.

In LaGrange, id., at 3338, para. 6, the Commission moreover

held that reception service gains in already well-served urban areas would be given little or no weight. Here, the reception service gains proposed by BCL are in the well-served Columbia radio market.

Accordingly, the proposal of BCL to reallocate Channel 221A from rural Saluda to urbanized Irmo must be rejected. Irmo is a community located in the Columbia Urbanized Area and in the Columbia radio market. It is already well-served with a plethora of stations in this market, while rural Saluda would lose its only full-time local service. Therefore, the policies of Section 307(b) would not be served by such a reallocation and would in fact be undermined.

Conclusions

WHEREFORE, in view of the foregoing, the proposed rulemaking must be rejected as inconsistent with Commission policies and rules under Section 307(b).

Respectfully submitted,

GLORY COMMUNICATIONS, INC.

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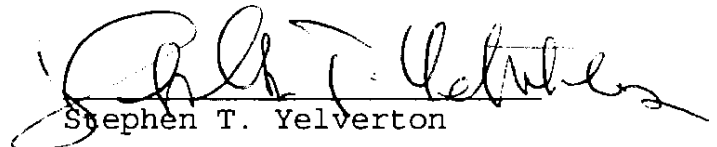
March 10, 2003

CERTIFICATE OF SERVICE

I, Stephen T. Yelverton, an attorney at law admitted to practice in the District of Columbia, hereby certifies that on the 10th day of March, 2003, I have caused to be mailed, U.S. Mail, postage pre-paid, a copy of the "Comments in Opposition to Proposed Rulemaking" filed by Glory Communications, Inc., to the following persons or parties:

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